DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

INITIAL STATEMENT OF REASONS

TITLE 13, CALIFORNIA CODE OF REGULATIONS, DIVISION 2, CHAPTER 6.5
AMEND ARTICLE 7.5, SECTION 1239

COMMERCIAL VEHICLE SAFETY ALLIANCE
NORTH AMERICAN STANDARD OUT-OF-SERVICE CRITERIA
(CHP-R-08-06)

PROBLEM

Current regulations adopt by reference major portions of the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria, January 1, 2004 Edition. This criteria outlines conditions by which a commercial vehicle may be placed out-of-service as a result of an inspection by an authorized representative of the California Highway Patrol (CHP). CHP personnel utilize this criteria for determining whether or not a vehicle and/or driver is in such an unsafe condition that they are likely to constitute a hazard on a highway and therefore, should be placed out-of-service. The Commercial Vehicle Safety Alliance reviews and updates this criteria annually, and in order to remain consistent, the CHP must update its regulations to reflect the most current out-of-service criteria available.

PURPOSE OF REGULATIONS

The CHP proposes to update the incorporation by reference of the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria, January 1, 2004 Edition, to the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria, April 1, 2008 Edition, in Title 13, California Code of Regulations (13 CCR). The intent of this criteria is to maintain specific guidelines for determining whether or not a vehicle and/or driver is in such an unsafe condition that they are likely to constitute a hazard on the highway. This criteria provides consistency for California with its neighboring states, Canada and Mexico, and maintains a regulatory basis for enforcement efforts as they relate to commercial vehicle out-of-service criteria. Most criteria listed as out-of-service are also violations of current California Vehicle Code (VC) statutes or 13 CCR regulations already in effect. Updating regulations to reflect the most current edition will continue to provide the regulatory authority to place the driver and/or vehicle out-of-service in addition to issuing a citation.

Section 34501(a)(1) VC authorizes the CHP to adopt reasonable rules and regulations which, in the judgment of the Department, are designed to promote the safe operation of vehicles described in Section 34500 VC. In addition, Section 2402 VC provides the Commissioner with the authority to "make and enforce such rules and regulations as may be necessary to carry out the duties of the Department," and Section 2410 VC provides the authority for the CHP to place vehicles out-of-service (Attorney General's Opinion NS 2520) in order to "ensure safety."

SECTION BY SECTION OVERVIEW

§1239(b). Incorporation by Reference.

The CHP proposes that the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria, April 1, 2008 Edition, be incorporated by reference into 13 CCR. The Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria is a document that is annually reviewed and updated by the Commercial Vehicle Safety Alliance, and encompasses a vast cross section of industry and public safety concerns.

Changes to the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria (April 1, 2008 Edition):

Driver Out-of-Service Criteria Changes

3. CDL

Subpart 3.a. License (383.23(a)(2)).: Amends

NOTE:** Mexican operators who do not possess a valid Licencia Federal. (Can be recognized by the medallion in the upper left hand corner containing the Mexican national symbol of an eagle with a serpent. The words Licencia Federal de Conductor and logo SCT are also on the front of the license.)* ***Place driver Out-of-Service.

9. INTOXICATING BEVERAGES

Adds the following;

Driver violating any roadside out-of-service order regarding intoxicating beverages. (392.5(c)(2))* ***Place driver Out-of-Service for twenty-four (24) consecutive hours.*

***NOTE:** The driver would not be placed Out-of-Service, if the driver has taken time off equivalent to the original out-of-service order.*

10. DRIVER'S RECORD OF DUTY STATUS – U.S.

Adds the following subpart and footnote;

**c.* *Hours of Service Out-of-Service Order (See footnote 9)*

Driver violating any roadside out-of-service order regarding hours of service. (395.13(d)) ***Place driver Out-of-Service for ten (10) consecutive hours.***

**9. The driver would not be placed out-of-service, if the driver has taken time off equivalent to the original out-of-service order.*

**The new Canadian Driver's Hours of Service rules became effective on January 1, 2007. The 2008 edition of the OOSC was amended with the new approved language. This change allows Canadian enforcement personnel to enforce the requirements contained in the new rules as of the January 1, 2007 compliance date.*

11. DRIVER'S RECORD OF DUTY STATUS – CANADA

**a.* *Driver Impairment*

Driver's faculties are impaired to the point where it is unsafe for the driver to drive, or driving would likely jeopardize safety. ***Place driver Out-of-Service for ten (10) consecutive hours.***

**b.* *13 Hour Rule (See footnotes 1,3,4)*

(1) Driving more than thirteen (13) hours following eight consecutive hours off duty.* ***Place driver Out-of-Service for eight (8) consecutive hours.*

(2) Driving more than thirteen (13) hours in a day.* ***Place driver Out-of-Service for ten (10) consecutive hours.*

** c.* *14 Hour Rule (See footnotes 1,3,4)*

(1) Driving for any period after having been on duty fourteen (14) hours following eight (8) consecutive hours off duty.* ***Place driver Out-of-Service for eight (8) consecutive hours.*

(2) Driving for any period after having been on duty fourteen (14) hours in a day.* ***Place driver Out-of-Service for ten (10) consecutive hours.*

**d.* *16 Hour Rule (See footnotes 1,4)*

Drive after 16 hours of elapsed time between mandatory periods of off duty time. ***Place driver Out-of-Service for eight (8) consecutive hours.***

*e. *70/120 Hour Rules (See footnotes 1,3,4,5)*

Driving after being on duty more than 70 hours in 7 consecutive days or 120 hours in 14 consecutive days. ***Place driver Out-of-Service until such time as eligibility to drive is re-established.***

*f. *10 Hour Off Duty Rule (See footnote 1)*

Driver fails to take 10 hours off duty in a day. ***Place driver Out-of-Service until such time as eligibility to drive is re-established.***

*g. *24 Hours Off (See footnote 1)*

Driver fails to take 24 hours off duty in the previous 14 days. ***Place driver Out-of-Service for twenty-four (24) consecutive hours.***

*h. *No Daily Log (See footnote 2)*

The driver is unable or refuses to produce a daily log for the current trip, a copy of the daily logs for the previous fourteen consecutive days, or any supporting documents relevant to the current trip. ***Place driver Out-of-Service for seventy-two (72) consecutive hours.***

*i. *False Log (See footnote 1)*

A daily log that does not accurately reflect the driver's actual activities and duty status (including time and location of each duty status change and the time spent in each duty status) in an apparent attempt to conceal a violation of an hours of service limitation. ***Place driver Out-of-Service for seventy-two (72) consecutive hours.***

Footnotes for driver's record of duty status – Canada

*1. *Sleeper Berth Operations*

*a. *Drivers involved in sleeper berth operations (sleeper teams) placed Out-of-Service for "Hours of Service" violations may be replaced by a co-driver, if the co-driver has hours available to drive.*

*b. *A solo driver using a sleeper berth to obtain rest who exceeds the hours of service limitations shall be placed Out-of-Service until said driver has hours available to drive.*

*2. *A driver failing only to have possession of a daily log current on the day of examination and/or the prior day, but has completed required daily logs up to that time will be given the opportunity to make the daily log current.*

*3. *Drivers must comply with the hours of service rules of the country (Canada, United States or Mexico) that the driver is operating (driving) in.*

**4.* *Drivers operating north of the 60th parallel may not drive after accumulating 15 hours driving time, 18 hours on-duty time, 20 hours of elapsed time between mandatory periods of off duty time, 80 hours in 7 consecutive days or 120 hours in 14 days.*

**5.* *When applying the 120 hours in a 14 consecutive day period, drivers must take 24 consecutive hours off-duty prior to accumulating more than 70 hours on duty (prior to accumulating more than 80 hours on duty north of 60th parallel).*

Vehicle Condition Out-of-Service Criteria Changes

1. BRAKE SYSTEM

Amends the "Defective Brake Chart" in Part I, Item 1.a., amends Part II, Item 1.a.(6)(b), amends Part II, Item 1.b.(3)(b), amends Part II, Item 1.f., adds Part II, Item 1.p

**a.* *Defective Brakes*

The number of defective brakes is equal to or greater than 20 percent of the service brakes on the vehicle or combination. A defective brake includes any brake that meets one of the following criteria.

***NOTE:** Steering axle brakes under item 1. b. – "Front Steering Axle(s) Brakes", are to be included in the 20 percent criterion.*

Defective Brake Chart (below) may be used to assist in determining when a vehicle/combination is to be placed Out-of-Service.

Total Number of Brakes Required to be on a Vehicle Combination	***Total Number of Defective Brakes Necessary to Place the Vehicle or Combination Out-of-Service***
4	*1*
6	*2*
8	*2*
10	*2*
12	*3*
14	*3*
16	*4*
18	*4*
20	*4*
22	*5*
****	

*** For a vehicle or combination, which exceeds 22 brakes.*

***Total Number of Defective Brakes Necessary to Place the Vehicle or Combination Out-of-Service**

Determine the number of defective brakes required by using 20% of the total number of brakes on the vehicle or combination (i.e. 24 x .20 = 4.8 brakes). Round all fractions up to the next whole number (i.e. 4.8 brakes = 5 required defective brakes).

***Calculating the Number of Defective Brakes**

When determining the number of defective brakes, round all fractions down to the next whole number (i.e. 4.5 brake violations = 4 defective brakes).

**(6) Brake linings or pads*

**(b) The friction surface of the brake drum or rotor, and the brake friction material are contaminated by oil, grease, or brake fluid. (393.47)*

** b. Front Steering Axle(s) Brakes*

**(b) The friction surface of the brake drum or rotor, and the brake friction material are contaminated by oil, grease, or brake fluid. (393.47)*

** f. Brake Drums or Rotors (Discs)*

**(1) ** Any portion of the drum has any external crack or cracks that open upon brake application. (393.47(a))*

**(2) ** Any rotor (disc) with a crack in length of more than 75% of the friction surface and passes completely through the rotor to the center vent from either side or completely through a solid rotor. (393.47(a))*

**(3) Any portion of the drum or rotor (discs) missing or in danger of falling away. (393.47(a))*

***** NOTE:** Do not confuse short hairline heat check cracks with flexural cracks. (393.47(a))*

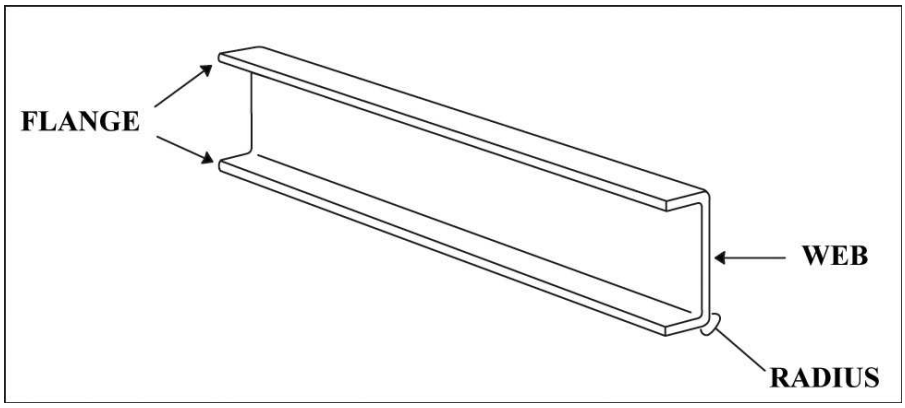
**p. Performance-Based Brake Test (PBBT)*

Failing to develop a total brake force as a percentage of gross vehicle or combination weight of 43.5 or more on an approved PBBT. (393.52(a)) The out-of-service notice will be satisfactorily completed: 1) If an approved PBBT is available, the vehicle shall be retested on an approved PBBT and achieve a total brake force as a percentage of gross vehicle or combination weight of 43.5 or more; or 2) If an approved PBBT is unavailable, each of the brake fault areas identified on the inspection report shall be inspected and repaired.

NOTE: *In the United States, an approved PBBT must meet the FMCSA functional specifications 65 FR 48799, August 9, 2000.*

4. FRAME

Adds line drawing to Part II, Item 4.a.,



7. SAFE LOADING/TIEDOWNS

Adds Part II, Item 7.h(1) through (5).

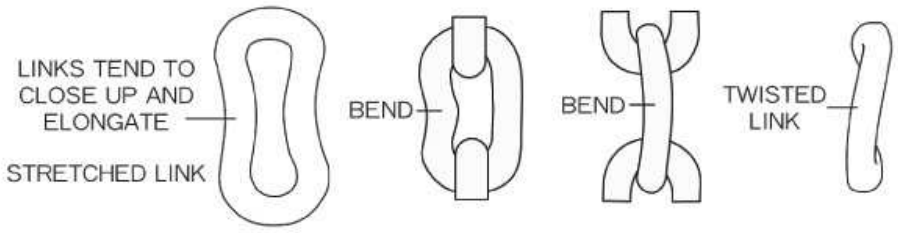
**h. When any of the required type and number of tie-downs are defective or loose. (393.104(b) – Defective, 393.104(f) – Loose)*

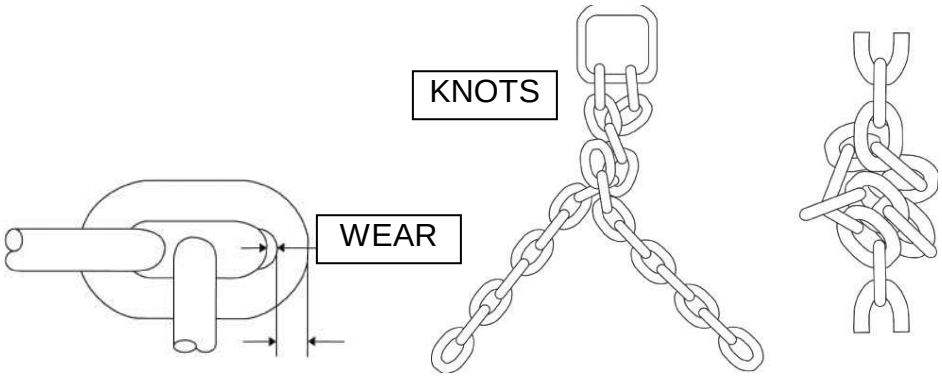
**(1) Chain Defects (Found in the load-bearing portion of the tiedown.)*

(a) Broken, cracked, twisted, bent, or stretched links. (393.104(b))

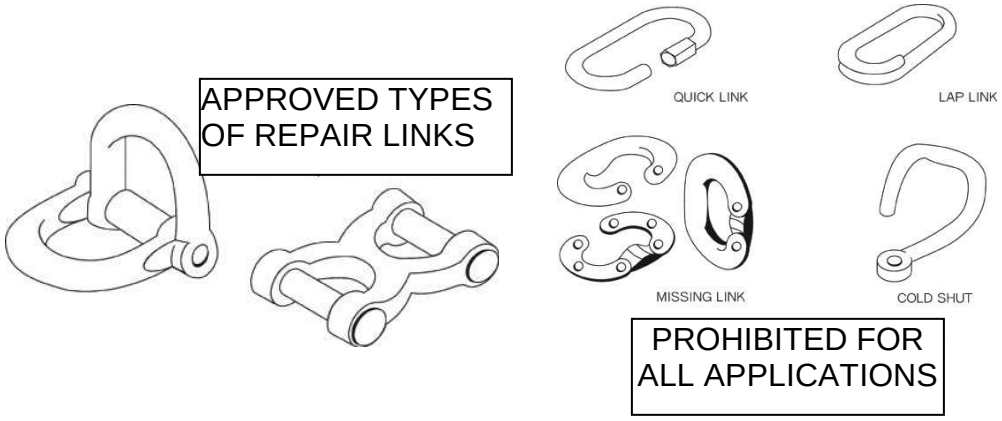
(b) Containing nicks, gouges, abrasions, excessive wear, or knots. (393.104(b))

(c) Any weld(s) on chain, except the original chain weld in each link. (393.104(f)(2))





NOTE: *Repairs. Links of the clevis variety, having a strength equal to or greater than the nominal chain are acceptable.*



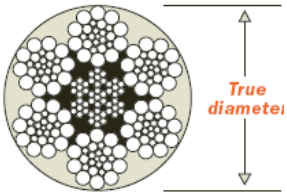
**(2)* *Wire Rope Defects (Found in the load-bearing portion of the tiedown.)*

(a) *Kinks, bird caging, popped core, or knots in the working section of the wire rope. (393.104(b), 393.104(f)(1))*

(b) *Discoloration from excessive heat or electric arc in the eye or main body of the wire rope. (393.104(b))*

(c) *Corrosion with pitting of the external or internal wires. (393.104(b))*

**(d)* *More than 11 broken wires in 6 diameters of length. For example: with 1/2 inch (13mm) wire rope, over 11 broken wires in (6 x 1/2) or 3 inches in length (6 x 13 = 78mm). (393.104(b))*



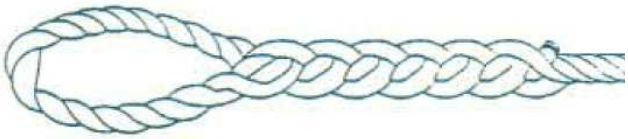
(e) *More than three broken wires in any one strand. (393.104(b))*

(f) *More than two broken wires at the end connection or fitting. (393.104(b))*

***NOTE:** Repairs. Wire rope used in tie-down assemblies shall not be repaired or spliced. (Back splices and eye splices are acceptable.)*

BACK SPLICE

EYE SPLICE



***NOTE:** Wire rope defects.*

**(3)* *Cordage (fiber rope) Defects (Found in the load-bearing portion of the tiedown.)*

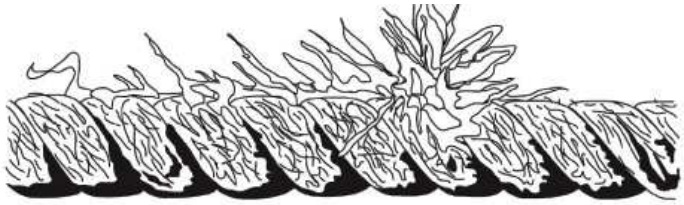
(a) Burned or melted fibers except on heat-sealed ends. (393.104(b))

*(b) ** Evidence of excessive wear in exterior or interior fibers. (393.104(b))*

*(c) ** Any evidence of loss of strength, such as a marked reduction in diameter. (393.104(b))*

(d) Ineffective knots formed for the purpose of connecting or repairing binders. (393.104(f)(1))

***** NOTE:** Effective diameter of cordage reduced by 20 percent is excessive. Repairs: Cordage used in tie-down assemblies shall not be repaired. (Separate lengths of cordage properly spliced together are not considered repairs.)*



CHAFED AND FRAYED YARNS; REMOVED FROM SERVICE

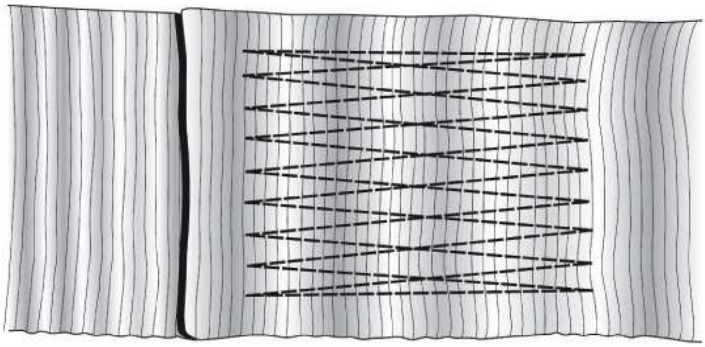
MINOR ABRASION OR CHAFING; OK TO CONTINUE USE

**(4) Synthetic Webbing Defects (Found in the load-bearing portion of the tiedown.)*

(a) The tie-down contains cut(s), burn(s), and/or hole(s) through the webbing which total more than that shown in the Defect Classification Table. (393.104(b))

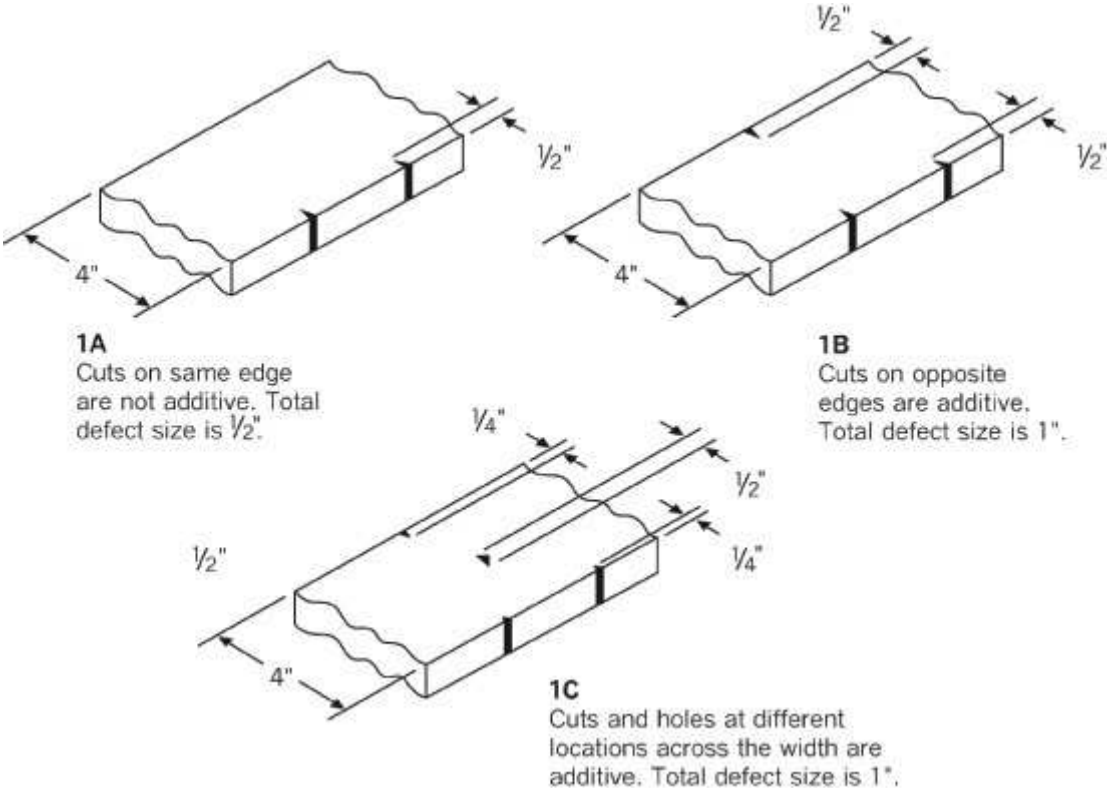
**(b) The tie-down contains separation of its load carrying stitch pattern(s) in excess of 1/4 of the total stitch area. (393.104(b))*

**Graphic of one example of a load bearing stitch pattern at hook end.*



(c) *The tie-down contains any fitting, tensioning device, or hardware which is broken, obviously sprung, bent, twisted, or contains visible cracks or significant nicks or gouges. (393.104(b))*

(d) *The tie-down contains a knot, repair, splice, or any other apparent defect (i.e. crushed areas, damaged loop ends, severe abrasions, etc.) (393.104(b), 393.104(f)(2))*



DEFECT CLASSIFICATION TABLE
Total Defect Size

Web Size	*Out-of-Service Range*
Inches (mm)	*Inches (mm)*
4 (100)	*Larger than 3/4 (19)*
3 (75)	*Larger than 5/8 (16)*
2 (50)	*Larger than 3/8 (10)*
1.75 (45)	*Larger than 3/8 (10)*

All cut(s), burn(s), and/or hole(s) through the webbing are additive across the width of the strap face for its entire effective length. But only one defect is additive for any specific width.

***NOTE:** Repairs. Webbing used in tie-down assemblies shall not be repaired or spliced.*

**(5) Steel Strapping (Found in the load-bearing portion of the tiedown.)*

(a) Steel strappings over one inch (25mm) in width not having at least two pair of crimps in each seal. (393.104(e))

(b) Steel strappings arranged in an end-over-end lap joint not sealed with at least two seals. (393.104(e))

(c) Obviously damaged or distorted steel strappings. (393.104(b))

9. SUSPENSION

Amends Part II, Item 9.a.(2), moves Part II Item 4.c to Part II, Item 9.e.,

**(2) Any axle, axle housing, spring hanger(s), or other axle positioning part(s) cracked, broken, loose, or missing resulting in shifting of an axle from its normal position. (393.207(a))*

***NOTE:** After a turn, lateral axle displacement is normal with some suspensions including composite springs mounted on steering axles.*

***e.** Adjustable Axle*

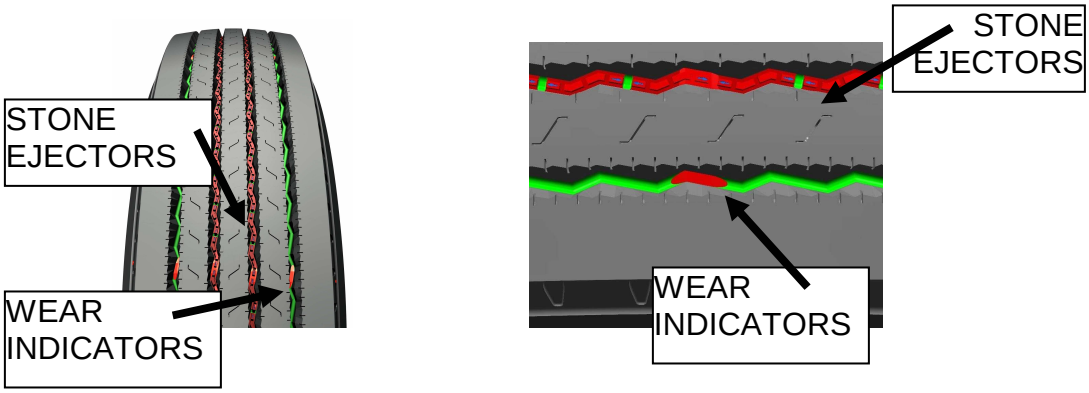
Adjustable axle assembly (sliding sub frame) with more than one-fourth of the locking pins missing or not engaged. (393.207(b))

10. TIRES

Amends Part II, Item 10

*a. *Any Tire on Any Front Steering Axle(s) of a Power Unit*

*(1) *With less than 2/32 inch (1.6mm) tread when measured in any two adjacent major tread grooves (typically any groove containing a tread wear indicator) at any location on the tire. (Measurements should not be made on stone ejectors or tread wear indicators). (393.75(b))*



*(2) *When any part of the belt material, breaker strip or casing ply is showing in the tread. (393.75(a))*

*(3) *When sidewall is cut, worn, or damaged to the extent that the steel or fabric ply cord is exposed. (393.75(a))*

*(4) *Labeled "Not For Highway Use" or carrying other markings that indicate excluded use on steering axles. (396.3(a)(1))*

*(5) *Visually observable bump, bulge, or knot apparently related to tread or sidewall separation. (393.75(a))*

EXCEPTION: *A bulge (due to a repair) of up to 3/8 inch (1cm) in height is allowed. This bulge may sometimes be identified by a blue triangular label in the immediate vicinity.*

(6) Tire has noticeable (e.g. can be heard or felt) leak, or has 50% or less of the maximum inflation pressure marked on the tire sidewall. (393.75(a)(3))

NOTE: Measure tire air pressure only if there is evidence the tire is under-inflated.

(7) So mounted or inflated that it comes in contact with any part of the vehicle. (396.3(a)(1))

(8) Front Steering Axle(s): Weight carried exceeds tire load limit. This includes overloaded tire resulting from low air pressure. (393.75(f))

EXCEPTION: Does not apply to vehicles being operated under the special permit exclusion found in Federal Motor Carrier Safety Regulation. (393.75(f)(1) and (2))

(9) Passenger Carrying Vehicle: Regrooved, recapped, or retreaded tires on front steering axles. (393.75(d))

*b. <u>All Tires Other Than Those Found on the Front Steering Axle(s) of a Powered Unit</u>

(1) Tire has noticeable (e.g. can be heard or felt) leak, or has 50% or less of the maximum inflation pressure marked on the tire sidewall. (393.75(a)(3))

NOTE: Measure tire air pressure only if there is evidence the tire is under-inflated.

*(2) Any tire with visually observable bump or knot apparently related to tread or sidewall separation. (393.75(a))

EXCEPTION: A bulge (due to a repair) of up to 3/8 inch (1cm) in height is allowed. The bulge may sometimes be identified by a blue triangular label in the immediate vicinity.

*(3) So mounted or inflated that it comes in contact with any part of the vehicle. (396.3(a)(1))

NOTE: This includes any tire contacting its mate in a dual set.

*(4) Weight carried exceeds tire load limit. This includes overloaded tire resulting from low air pressure. (393.75(f))

EXCEPTION: Does not apply to vehicles being operated under the special exclusion found in Federal Motor Carrier Safety Regulation. (393.75 (f)(1) and (2)

*(5) Seventy-five percent or more of the tread width loose or missing in excess of 12 inches (30cm) in circumference. (396.3(a)(1))

On dual tires, both tires must meet one or more of the Out-of-Service conditions listed below.

*(6) Bias Ply Tire: When more than one ply is exposed in the tread area or sidewall or when the exposed area of the top ply exceeds 2 square inches (13 sq. cm). (393.75(a)(1))

*(7) Radial Ply Tire: When two or more plies are exposed in the tread area or damaged cords are evident in the sidewall or when the exposed area exceeds 2 square inches (13 sq. cm) in the sidewall. (393.75(a)(1))

*(8) So worn that less than 1/32 inch (.8mm) tread remains when measured in any two adjacent major tread grooves (typically any groove containing a tread wear indicator) at 3 separate locations on the tire. (Measurements should not be made on stone ejectors or tread wear indicators). (393.75(c))

12. WHEELS, RIMS AND HUBS

Amends Part II, Item 12.b., Item 12.c.(2), Item 12.d., Item 12.f.(1)(2), Item 12.h.(3)(4), Item 12.i.(1)(3)(4)

**b.* *Rim Cracks*

Any circumferential crack. (393.205(a))

c. *Disc Wheel Cracks*

**(2) A crack extending between any two holes (hand holes, stud holes and center holes). (393.205(a))*

**d.* *Bolt/Stud Holes (Disc Wheels)*

Any visible elongated bolt/stud hole. (393.205(b))

**f.* *Tubeless Demountable Adapter Cracks*

**(1) A crack exceeding 3 inches (76mm). (393.205(a))*

**(2) Cracks at three or more spokes. (393.205(a))*

**h.* *Welds*

**(3) Any welded repair on any aluminum wheel(s). (396.3(a)(1))*

**(4) Any welded repair other than disc to rim attachment on steel disc wheel(s). (396.3(a)(1))*

**i.* *Hubs*

**(1) When any bearing (hub) cap, plug or filler plug is missing or broken allowing an open view into hub assembly. (396.3(a)(1) or 396.7)*

**(3) When any wheel seal is leaking. This must include evidence of wet contamination of the brake friction material and accompanied by evidence that further leaking will occur. (396.5)*

**(4) No visible or measurable amount of lubricant showing in hub. (396.3(a)(1) or (396.7)*

NOTE: *Grease/oil on the brake lining edge, back of shoe, or drum edge and oil stains with no evidence of fresh oil leakage are not conditions for Out-of-Service.*

14. WHEELS, RIMS AND HUBS

Amend Part II Item 14

**a.* *Emergency Exits*

Emergency exits required by Section 393.62 that are missing, inoperative, or obstructed. (393.62 and 393.203)

**b.* *Wiring and Electrical Systems in Engine and Battery Compartments*

**(1)* *Electrical cable insulation chafed, frayed, damaged, burnt, causing bare cable to be exposed. (393.28, 396.3(a)(1))*

**(2)* *Loose or corroded connections at battery posts or unsuitable insulated protection to electrical components. (393.28, 393.77(b)(7), 396.3(a)(1))*

**(3)* *Missing or damaged protective grommets insulating main electrical cables through metal compartment panels. (393.30)*

**(4)* *Broken or unsecured mounting of electrical components. (396.3(a)(1))*

**(5)* *Electrical cables unsupported, hanging or missing clamps that may cause a chafing or frayed condition. (393.28, 396.3(a)(1))*

**(6)* *Any visual leaking of lubricant (i.e. engine supplied oil pressure) from electrical component such as alternator, auxiliary heater, etc. (396.5, 396.3(a)(1))*

Administrative Out - of - Service Criteria Changes

1. OPERATING AUTHORITY

Operating a motor vehicle without the required operating authority or beyond the scope of the motor carriers' operating authority. (392.9a) ***Place vehicle Out-of-Service until proper operating authority is obtained.***

**** 2.*** ***MEXICO DOMICILED CARRIERS OPERATING IN THE U.S.***

A Mexico-domiciled carrier (USDOT X Number) granted provisional operating authority pursuant to 49 CFR 365 operating a commercial motor vehicle in the United States that does not display a current CVSA decal(s) on both the power unit and towed unit(s). (385.103(c)) ***Place vehicle(s) Out-of-Service until the vehicle(s) satisfactorily passes an inspection and a CVSA decal is issued.***

HISTORY/BACKGROUND

In 1980, the Western States Commercial Vehicle Safety Alliance was established when agencies from seven western states and two Canadian provinces met to discuss common needs and ways to create uniformity of inspection standards, procedures and practices with the intent of improving commercial vehicle safety. The Western States Commercial Vehicle Safety Alliance brought together representatives from federal, state and provincial governmental agencies as well as the private industry to develop common standards and practices. As a result, the organization established the following initial goals:

- Avoid duplication of inspection efforts by the various jurisdictions;
- Improve the safety of equipment being operated on all highways;
- Minimize inspection delays for the operating industry;
- Increase the number of on-highway inspections;
- Bring about an overall improvement in commercial vehicle and hazardous materials transportation safety;
- Improve commercial driver safety performance;
- Improve compliance with the hazardous materials transportation regulations; and
- Bring about improvements in the collection, dissemination and use of operational motor carrier safety data and research findings.

In July 1981, the CHP entered into a memorandum of understanding with the Western States Commercial Vehicle Safety Alliance. The purpose of the memorandum was to maximize the use of commercial motor vehicle driver and cargo inspection resources; to avoid duplication of effort in expanding the number of inspections performed in a region; to advance uniformity of inspection; and to minimize delays incurred by industry as a result of this type of enforcement activity. As a Western States Commercial Vehicle Safety Alliance member, California agreed to implement procedures pursuant to minimum inspection criteria and out-of-service criteria. Shortly thereafter in 1982, the Western States Commercial Vehicle Safety Alliance became the

Commercial Vehicle Safety Alliance. In an effort to maintain consistency and uniformity among the member states, the Commercial Vehicle Safety Alliance established the following:

- The Uniform North American Commercial Vehicle Standard Inspection Procedures;
- The adoption of the uniform out-of-service criteria;
- The adoption of the uniform severity rating of out-of-service violations and maximum fine schedules;
- The development of uniform training curriculum for certified Commercial Vehicle Safety Alliance inspectors;
- The development of uniform inspection procedures for vehicles transporting spent nuclear fuel, high-level radioactive waste and Transuranics (commonly known as the "Enhanced Inspection Procedure");
- The adoption of uniform bus inspection procedures; and
- The development of uniform cargo tank inspection procedures.

The out-of-service criteria is developed through the Commercial Vehicle Safety Alliance with participation from federal, state and provincial officials as well as industry representatives, including appropriate manufacturers and other interested parties. Before revisions to the out-of-service criteria are presented for adoption, a need for the change must be established by accompanying documentation, such as:

- Accident experience/statistics;
- Recommendations, including technical analysis;
- A description showing a new technology; or
- A need for redefinition or clarification of existing criteria.

Any modifications to the criteria require ratification by the general membership at the annual Commercial Vehicle Safety Alliance conference held each fall. Approved modifications are published and become effective on April 1st of each year, with the exception of 2004, where the modifications became effective January 1st.

The Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria is not contained in federal safety regulations. It is an administrative procedure which has been developed to aid the law enforcement officer in determining when a defect or violation has deteriorated to a point where it is likely to result in a breakdown or accident, and must be

repaired or corrected before the vehicle and driver are allowed to operate on the highways of North America. It is also important to note the Commercial Vehicle Safety Alliance consists of representatives from law enforcement, truck and bus companies, manufacturers, safety product and service providers, and insurance companies.

STUDIES/RELATED FACTS

The following documents lend support or are otherwise related to this proposed rulemaking. Copies of these documents, or relevant portions thereof, can be obtained from the CHP by telephoning the Commercial Vehicle Section at (916) 445-1865, 1-800-735-2929 (TT/TDD), 1-800-735-2922 (Voice), or via Facsimile at (916) 446-4579. The rulemaking file is available for inspection at the CHP, Commercial Vehicle Section, 444 North Third Street, Suite 310, Sacramento, California. Interested parties area advised to call for an appointment.

- Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria; April 1, 2002 Edition.

- Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria; January 1, 2004 Edition.

- Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria; April 1, 2008 Edition.

- Attorney General Opinion NS 2520, Authority to place vehicles out-of-service.

ALTERNATIVES

The CHP has not identified, nor been made aware of, an alternative that would be more effective than the proposed action.

Alternatives Identified and Rejected:

Alternative 1: *Do nothing and allow outdated reference to remain in 13 CCR*: This alternative was not selected because the continued use of outdated criteria would defeat the purpose of promoting uniformity and consistency with neighboring states.

Alternative 2: *Discontinue use of Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria:* Discontinuing the use of the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria as an enforcement tool by CHP Officers may result in:

- Increased numbers of unsafe commercial vehicles being operated on California highways;

- Lack of inspection uniformity with neighboring states; and

- Increased equipment-related traffic collisions involving commercial vehicles.

The estimated cost of this alternative could exceed one million dollars. This estimated figure was derived based on additional time accident investigators may spend investigating collisions resulting from increased numbers of unsafe vehicles on California roadways. Additional costs may be incurred because commercial officers may re-inspect vehicles that have already been inspected outside of California because the CHP would not recognize vehicle inspections performed elsewhere.

Alternative 3: *Update 13 CCR to current revision of the Commercial Vehicle Safety Alliance Out-of-Service Criteria*: This is the Alternative selected as it best meets the safety needs of the public and the Department.

Performance vs. Prescriptive Standards

Due to the nature of the equipment (brakes, frames, fuel systems, etc.) and the standards (driver licenses, hours of service, etc.) to which this criteria will be applied, it is necessary to apply prescriptive standards. Equipment service limits are critical in commercial vehicles and must be closely adhered to in order to ensure the proper functioning of the equipment. Small deviations in critical component dimensions could mean the difference between an item of equipment working properly and an item that fails completely. A critical item of equipment that fails on any vehicle could lead to a collision and possible injury or death. Non-equipment related standards are also prescriptive and critical. In order to properly and safely operate a vehicle, a driver must pass a written knowledge test as well as demonstrate an ability to operate the vehicle.

LOCAL MANDATE

These regulations do not impose any new mandate on local agencies or school districts.

ECONOMIC IMPACT ON BUSINESS

The CHP has not identified any significant adverse impact on businesses. Businesses involved in the transportation of interstate and intrastate commerce via commercial trucking may choose to purchase the current Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria at a cost of approximately $35 annually at *www.cvsa.org*. These businesses will not otherwise experience any greater effect due to the implementation of the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria, April 1, 2008 Edition, than is already commonly known and accepted.

FISCAL IMPACT TO THE STATE

The Department has determined these regulation amendments will result in:

- No significant increase in costs for owners or operators of commercial vehicles. This rulemaking action will simply provide a regulatory basis to enforce the out-of-service criteria that is already being used by the CHP and throughout North America;

- No significant compliance cost for persons or businesses directly affected;

- No discernible adverse impact on the quantity and distribution of goods and services to large and small businesses or the public;

- No impact on the level of employment in the state; and

- No impact on the competitiveness of this state to retain businesses, as state, provincial and national governments throughout North America have already adopted these requirements.